

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GABRIELLA BASS,

Plaintiff,

- against -

WP COMPANY LLC

Defendant.

Docket No. 1:17-cv-07068

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Gabriella Bass (“Bass” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant WP Company LLC, (“WP” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of two iconic copyrighted photographs of the fearless girl sculpture in Wall Street owned and registered by Bass, a New York based photojournalist. Accordingly, Bass seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacting doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Bass is a professional photojournalist in the business of licensing her photographs to online and print media for a fee having a usual place of business at 44 St. Nicholas Avenue, Apt. 3R, Brooklyn, New York, 11237.

6. Upon information and belief, WP is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 20 West 22nd Street, New York, New York 10010. At all times material hereto, WP has owned and operated a website at the URL: www.WashingtonPost.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Bass photographed the iconic fearless girl sculpture in Wall Street (the “Photographs”). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Bass then licensed the Photographs to the New York Post. On May 29, 2017, the New York Post ran an article that featured the Photographs entitled *Pissed-off artist adds statue of urinating dog next to ‘Fearless Girl’*. Bass’ name was featured in a gutter crediting identifying her as the photographer of the Photographs. A true and correct copy of the article is attached hereto as Exhibit B.

9. Bass is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

10. The Photographs were registered with United States Copyright Office and were given Copyright Registration Number VA 2-055-082. See Exhibit C.

B. Defendant’s Infringing Activities

11. On or about May 30, 2017, a reporter for WP reached out to Bass to inquiry about licensing Photographs.

12. Later that day on May 30, 2017 the same reporter stated that the Photographs were out of the photo department's budget and that they were going with an older image of the fearless girl statue.

13. After that communication, WP ran an article on the Website entitled *An Artist hated the "Fearless Girl" statue- so he put this at her feet*. See https://www.washingtonpost.com/news/post-nation/wp/2017/05/30/pissing-pug-pops-up-beside-fearless-girl-as-battle-of-wall-street-statues-continues/?utm_term=.beb7f4be2677.

14. The article prominently featured the Photographs. Screen Shots of the article with the Photographs are attached hereto as Exhibit D.

15. Even after the WP decided not to license the Photographs, the WP used the Photographs anyway.

16. WP did not license the Photographs from Plaintiff for its article, nor did WP have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST WP)
(17 U.S.C. §§ 106, 501)

17. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-16 above.

18. WP infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. WP is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

19. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

20. Upon information and belief, the foregoing acts of infringement by WP have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

21. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

22. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

23. Plaintiff further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant WP be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
September 18, 2017

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